

**DEPARTMENT OF STATE REVENUE  
LETTER OF FINDINGS NUMBER: 98-0415  
INDIVIDUAL INCOME TAX  
For The Tax Period: 1994**

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**ISSUE**

**I. Individual Income Tax – Farm Rental Income/Documentation**

**Authority:** IC 6-3-1-3.5, IC 6-8.1-5-4, IC 6-8.1-5-1, I.R.C. §62.

The Taxpayer protests the Department's disallowance of certain expenses pertaining to its farm rental income.

**II. Individual Income Tax – Dividend Income/Documentation**

**Authority:** IC 6-3-1-3.5, IC 6-8.1-5-4, IC 6-8.1-5-1, I.R.C. §61, I.R.C. §62.

The Taxpayer protests the Department's inclusion of dividend income.

**STATEMENT OF FACTS**

An investigation was conducted by the Audit Division of the Indiana Department of Revenue. Taxpayer was assessed as a shareholder for adjustments made to two companies, which are wholly owned by Taxpayer. The investigation also found that Taxpayer's Farm Rental Income was underreported on his federal Schedule E (Supplemental Income or Loss) when certain expenses were disallowed on his federal Form 4835 (Farm Rental Income). More facts supplied as necessary.

**I. Individual Income Tax: Farm Rental Income/Documentation**

**DISCUSSION**

Taxpayer was assessed income tax on adjustments made to his Farm Rental Income. The assessment was based on Taxpayer's federal Schedule E (Supplemental Income and Loss) which included net farm rental income as computed on federal Form 4835. The Department disallowed certain expenses reported by Taxpayer on Form 4835 in computing the income.

The computation of Indiana Adjusted Gross Income for individuals begins with the definition provided in Section 62 of the Internal Revenue Code. IC 6-3-1-3.5. I.R.C. § 62 defines adjusted

gross income to include gross income minus certain deductions, including “Deductions Attributable to Rents and Royalties” , which are the only deductions relevant in this matter. I.R.C. § 62(a)(4) states:

Deductions Attributable to Rents and Royalties – The deductions allowed by part VI (sec. 161 and following), by section 212 (relating to expenses for production of income), and by section 611 (relating to depletion) which are attributable to property held for the production of rents and royalties.

The auditor disallowed various expenses because Taxpayer failed to demonstrate they were attributable to the farm rental income. IC 6-8.1-5-4 states

- (a) Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person’s liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Taxpayer claims that the auditor disallowed the expenses in error but does not provide any documentation to show otherwise. Pursuant to IC 6-8.1-5-1(b): “[t]he notice of proposed assessment is prima facie evidence that the department’s claim for the unpaid tax is valid. The burden of proving that the proposes assessment is wrong rests with the person against whom the proposes assessment is made.” Thus, Taxpayer’s argument that the expenses were disallowed in error fails.

Taxpayer also claims that the expenses were disallowed during the investigation but were subsequently allowed in an audit for a different period. Taxpayer’s argument is without merit. The facts and circumstances relating to each audit period are unique and viewed independently. Taxpayer has the burden of providing the documentation necessary to verify the expenses pursuant to IC 6-8.1-5-4.

### **FINDING**

The Taxpayer’s protest is respectfully denied.

## **II. Individual Income Tax: Dividend Income/Documentation**

Taxpayer claims that certain dividend income which was added during the investigation is not income above that previously reported. Taxpayer was assessed Indiana Adjusted Gross Income Tax on underreported shareholder income received by Taxpayer. The underreported income was found when the Department audited two companies wholly owned by Taxpayer.

The computation of Indiana Adjusted Gross Income for individuals begins with the definition provided in Section 62 of the Internal Revenue Code. IC 6-3-1-3.5. . I.R.C. § 62 defines adjusted gross income to include gross income minus certain deductions, none of which are relevant in this matter. The definition of gross income includes dividends. I.R.C. § 61.

IC 6-8.1-5-4 states

- (b) Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and records. The records referred to in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Also, "[t]he notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." IC 6-8.1-5-1(b). Taxpayer provides no evidence whatsoever to show that assessment is in error.

### **FINDING**

The Taxpayer's protest is denied.